

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
WESTERN DIVISION

LEE FRANK SAVAGE, #65368

PETITIONER

VS.

CIVIL ACTION NO. 5:04-cv-285 (DCB) (JCS)

WARDEN GREER, JIM HOOD,  
AND CHRISTOPHER EPPS

RESPONDENTS

ORDER ADOPTING REPORT AND RECOMMENDATION OF MAGISTRATE JUDGE

This cause is before the Court on the petitioner's objection to Magistrate Judge James C. Sumner's Report and Recommendation of October 12, 2005, which recommends granting the respondents' motion to dismiss (**docket entry 12**). Having reviewed the record, the findings of the magistrate judge, and the petitioner's objection, the Court finds as follows:

This is a habeas corpus petition filed pursuant to 42 U.S.C. § 2254, wherein the petitioner challenges a September 8, 1997 conviction of attempted burglary in the Circuit Court of Claiborne County, Mississippi. The Report and Recommendation finds that the respondents' assertion that the petition is untimely is meritorious, and that this Court is precluded from ruling on the merits of the petition for writ of habeas corpus. The magistrate judge further finds that the petitioner has failed to show any grounds for tolling the statute of limitations.

The Court finds nothing in the petitioner's objection that would cause it to modify the Magistrate Judge's findings. The petitioner does not offer any grounds for tolling the statute of

limitations.

IT IS HEREBY ORDERED that the Report and Recommendation of October 12, 2005, is hereby adopted in its entirety as the finding of this Court, the respondents' motion to dismiss (**docket entry 12**) is GRANTED, and the petition for writ of habeas corpus is dismissed with prejudice.

A separate final judgment will be entered herein in accordance with this Order and as required by Rule 58 of the Federal Rules of Civil Procedure.

SO ORDERED, this the 17<sup>th</sup> day of March, 2006.

S/DAVID BRAMLETTE  
UNITED STATES DISTRICT JUDGE